

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

RANDY JOE NASS, individually and as
next friend of M. N., a minor and M.N.,
a minor and as Administrator of the
Estate of ELIZABETH MABRY NASS,
deceased,

PLAINTIFFS,
vs.

FRANK MORTON LANGDON, III,
and NATIONWIDE MUTUAL FIRE
INSURANCE COMPANY,

DEFENDANTS.

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CASE NO. 1:06cv-00238-WKW-VPM

**DEFENDANT NATIONWIDE MUTUAL FIRE INSURANCE COMPANY'S
AMENDED ANSWER**

COMES NOW the Defendant NATIONWIDE MUTUAL FIRE INSURANCE
COMPANY, and herewith amends its answer as follows:

1. Defendant amends the following previously asserted defenses as follows:

FOURTEENTH AFFIRMATIVE DEFENSE

This Defendant claims credit for any amounts received or collected by the
plaintiffs by any alleged tortfeasor or alleged tortfeasor's liability carrier.

FIFTEENTH AFFIRMATIVE DEFENSE

This Defendant claims a setoff for any amounts recovered or collected by
plaintiffs from any alleged tortfeasor or alleged tortfeasor's liability carrier.

SIXTEENTH AFFIRMATIVE DEFENSE

This Defendant claims all reductions, credits, setoffs, and limitations for any available liability coverage.

SEVENTEENTH AFFIRMATIVE DEFENSE

Defendant avers its contract is to be interpreted pursuant to Georgia law and herewith gives notice of same.

2. This Defendant adds the following additional affirmative defenses.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

This Defendant avers there is no coverage available to plaintiffs.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

This Defendant avers any claimed coverage is excluded under the policy.

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

This Defendant avers that plaintiffs have failed to comply with the “Insured Persons’ Duties” provision of the policy.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

This Defendant avers any claimed coverage and payment are conditioned on and subject to the “Limits and Conditions of Payment” provisions of the policy.

THIRTY-NINTH AFFIRMATIVE DEFENSE

This Defendant avers the limits of this coverage or damages payable, whichever are less, are to be reduced by any amount paid by or for any liable parties; are to be reduced by any amount paid by or for any liable parties; and/or any sums paid or payable under any workers’ compensation, disability benefits, or similar laws.

FORTIETH AFFIRMATIVE DEFENSE

This Defendant avers the consortium claim of Plaintiff Randy Joe Nass does not survive the death of Elizabeth Mabry Nass.

/s/ *Randall Morgan*
RANDALL MORGAN [8350R70R]
ATTORNEY FOR DEFENDANT NATIONWIDE
MUTUAL FIRE INSURANCE COMPANY

OF COUNSEL:
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was duly served this the 18th day of July, 2006, upon all parties via email and/or U. S. Mail through the CM/ECF U.S. Federal Court system as follows:

John Alec Henig, Jr.
Copeland, Franco, Screws & Gill
P O Box 347
Montgomery, AL 36101-0347

Frank Morton Langdon, III
36 Ama Lane
Haynesville, SC 28904

/s/ *Randall Morgan*